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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,085	05/11/2001	Sik-Leung Chan	CHU/171/US	6986

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EXAMINER

NGUYEN, TUAN N

ART UNIT PAPER NUMBER

3751

DATE MAILED: 05/17/2002

#2

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/854,085

Applicant(s)

CHAN, SIK-LEUNG

Examiner

Tuan N. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. The disclosure is objected to because of the following informalities: "Figure 3" in line 3 of page 4 apparently should be --Figure 2--.

Appropriate correction is required.

3. The abstract of the disclosure is objected to because the heading "ABSTRACT (Figure 3)" should just be -- ABSTRACT --. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

4. Claims 1-5 are objected to because of the following informalities: "the shank the implement " in line 6 of claim 1 is grammatically incorrect and should be --the shank when the implement--; moreover, "1s" or "is" in line 6 of claim 1 is not legible. In addition, "biassed" in line 2 of claim 2 should be --biased--. Furthermore, "the handle manually releasably locks" in line 2 of claim 3 is grammatically incorrect and should be -the handle is manually and releasably locked--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "end-to-end" in line 3. There is insufficient antecedent basis for this limitation in the claim. Therefore, it is unclear as to which ends are actually being fitted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by McEnery.

In regard to claim 1, McEnery discloses a writing implement having a writing head supported by an elongate shank (23, 24a) and an elongate handle (29a, see Figs. 7-9) that fits "end-to-end" to the shank in a writing configuration for normal use (see Fig. 12), wherein the handle is pivotally connected to the shank and folds over the shank and is held against the shank at member (39 of Figs. 7-9) when the implement is in a folded configuration.

In regard to claim 2, the pivotable connection is spring biased to restrain the shank and handle towards the writing configuration (see page 2, line 104 et seq.).

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In regard to claim 3, a remote end of the handle is manually and releasably locked to a remote end (33a) of the shank (23, 24a) to hold the writing implement in the folded position (see page 2, line 104 et seq.).

In regard to claim 4, the handle extends over an end of the shank and the writing head in the folded configuration (as shown in Figs. 4, 10 and 15).


In regard to claim 5, the writing implement further includes a pocket clip (28a) mounted to and extending along a side of the handle.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Florjancic, Huffman, Jr., Klaber, and JP Patent 2001-121875 disclose other foldable writing instruments that can be modified in view of McEnery to have a spring biased pivotable connection between a handle and a shank.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7766.

  
Tuan N. Nguyen  
Examiner  
Art Unit 3751

TN  
May 15, 2002